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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,180	05/05/2005	Bruno Herren	82000.2020	3374
20601 7590 02/23/2007 SPECKMAN LAW GROUP PLLC 1201 THIRD AVENUE, SUITE 330 SEATTLE, WA 98101			EXAMINER FRANCIS, FAYE	
			ART UNIT	PAPER NUMBER
			3725	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/23/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/534,180

Applicant(s)

HERREN, BRUNO

Examiner

Faye Francis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 May 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 5/5/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the subject matter claimed in claims 17 and 18 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means", "said," and "**comprising**" should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because of the use of legal phraseology [note the word "**comprising**" in line 1. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 12-13 and 19-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 is indefinite since all that the applicant considers to be encompassed by the phrase "beaker-like" cannot be determined.

Claim 13 is indefinite because the phrase "the base of housing upper part" appears to be inaccurate given the teaching in the specification and the illustrations in the drawings [it appears that the base is in reference to the lower part].

With respect to claim 19: regarding "may be" in line 1, it makes the claim language confusing since it is not clear if applicant is claiming the feature that follows this phrase or not.

Claims 19-20 are indefinite because the claims are vague as to whether it recites the combination of the crusher and a shaker or the subcombination of the crusher only. This in turn is because the claim appears to recite further structural limitations on the shaker when no shaker appears to have been positively recited in these claims. However, in this office action it is presumed that claims 19-20 are drawn to the subcombination of the crusher only, in order to give the claims their broadest reasonable interpretation during examination, per applicable rules. Accordingly, all references in the claim to the shaker is only to be statements of intended use with regard to the claimed crusher. Said differently, all such features are not considered to further structurally limit the claimed crusher. Clarification of the scope of the claims is

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required in response to this office action. The applicant is reminded that it is by now well settled that features not claimed may not be relied upon in support of patentability.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

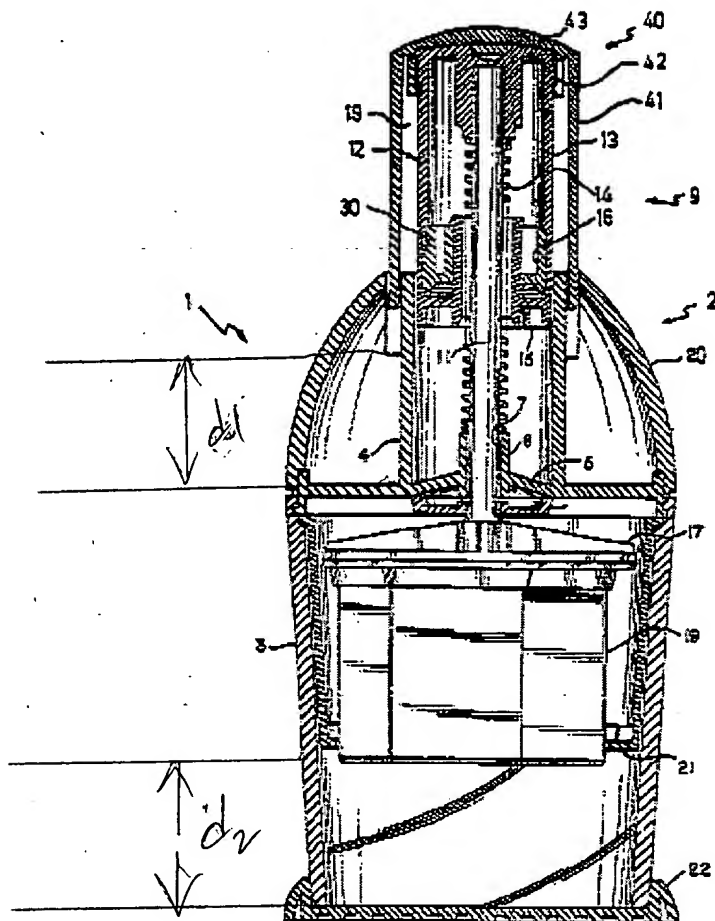
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 11-13, 19-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Treiss Jr [2,484,391], hereinafter Treiss.

Treiss discloses in Fig 1 (also see Figure below wherein the letters d1 and d2 have been added by the examiner), a hand-operated crusher for cutting up ice, comprising a housing having an upper part [cap 10] and a lower part [container 11], a vertical rod [shaft 23], a spring 28, means of an actuating mechanism having a push button [knob 26] and a knife [blade 25] wherein the cutter at is lowermost position, does not contact the base of the housing lower part [Fig 1].

8. Claims 11-13, 19-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Michel [US 2001/0028007].

Michel discloses in Fig 1, a hand-operated crusher which is capable of cutting up ice, comprising a housing 1 having an upper part 2 and a lower part 3, a vertical rod [plunger 11], a spring 14, means of an actuating mechanism having a push button 12 and a knife 19 wherein the cutter at is lowermost position, does not contact the base of the housing lower part [d1 is less than d2].



Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Treiss.

The limitations of these claims would have been obvious design choice once the basic structure was known, as it solves no stated problem and of no patentable merit [see pages 3 and 4 of the specification].

11. Claims 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michel.

The limitations of these claims would have been obvious design choice once the basic structure was known, as it solves no stated problem and of no patentable merit [see pages 3 and 4 of the specification].

12. Claims 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Treiss in view of Engelke [4,417,512].

Treiss discloses most of the elements of these claims but for the specific underlay.

Engelke teaches the concept of providing a crusher with an anti-slip elastomer pad 14. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the base in the device of Treiss with the anti-slip elastomer pad as taught by Engelke in order to maximize safety during operation.

Any remaining limitations not disclosed in the reference would then have been obvious design choice, as they solve no stated problem and of no patentable merit. For example, note the cited reference to Antonini, which discloses a pad/shock absorber made out of elastomer silicone.

13. Claims 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michel. in view of Engelke [4,417,512].

Michel. discloses most of the elements of these claims but for the specific underlay.

Engelke teaches the concept of providing a crusher with an anti-slip elastomer pad 14. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the base in the device of Michel. with the anti-slip elastomer pad as taught by Engelke in order to maximize safety during operation.

Any remaining limitations not disclosed in the reference would then have been obvious design choice, as they solve no stated problem and of no patentable merit. For example, note the cited reference to Antonini, which discloses a pad/shock absorber made out of elastomer silicone.

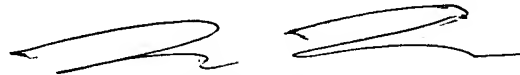
Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faye Francis whose telephone number is 571-272-4423. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Banks Derris can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Faye Francis
Primary Examiner
Art Unit 3725

FF